

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATIONAL URBAN LEAGUE, et al.,

Plaintiffs,

v.

WILBUR L. ROSS, et al.,

Defendants.

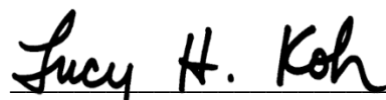
Case No. 20-CV-05799-LHK

**ORDER RE: COMMUNICATIONS
WITH THE COURT**

An individual has emailed the Court's proposed order inbox. The individual's emails are reproduced below. The Court hereby reminds all parties and interested parties who wish to communicate with the Court that any such communications shall be made in filings on the Court's docket.

IT IS SO ORDERED.

Dated: October 7, 2020



LUCY H. KOH
United States District Judge

10/7/2020

Mail - CAND LHKpo - Outlook

Judge Koh, it appears my October 1 email failed to make it in the record.... and also further issues...

Zachary Pasqualini <zacharypasqualini@gmail.com>

Wed 10/7/2020 5:14 AM

To: CAND LHKpo <lhkpo@cand.uscourts.gov>; C D LHK <LHKC D@cand.uscourts.gov>; Diane Miyashiro <Diane_Miyashiro@cand.uscourts.gov>

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

Hello Judge Koh. Perhaps because my below October 1 email was sent via a reply under the subject line of my earlier September 29 email, it appears to have been missed in making it into the official record.

While some of the issues/observations/suggestions appear to be moot, some appear yet to be cured, and new issues have surfaced, so I am sending you the below again, but I add to it the following observations/suggestions/concerns.

In the context of determining whether actions taken by Census senior leadership and particularly those above them were/are witting or unwitting, malicious or benign, competent or incompetent, challenged or not challenged by circumstance, etc.:

1. Is Mr. Christy's recounting of how many times (13?) he has responded to court orders meant for clarification, a further repetition of the complaint regarding the time and resources it takes to respond, or in its repetition a passive aggressive insult of the court? As per my October 1 email: "And while I am certainly sympathetic to the responses you are getting from management relaying the extensive time it takes to respond to us, it seems ironic that management not simply adhering to your orders is the cause of their own extra work and the confusion that abounds."

2. I suggest it would be worth the court's time to order the Census to respond to why the agreed statement regarding the extension of the time of enumeration was so haphazardly distributed. The Census Bureau has the Census and personal cell phone numbers and emails for all of us. Why wasn't the extension simply and immediately distributed with a blast? You might order them to describe the process and timing and oral and written directives related to all this? Also how many enumerators and other Census staff have been separated since the ignoring of your first and subsequent rulings?

3. As per the rumor mill because of a hack, at my level and extending to our regional Census Center (CC) we have been instructed to put nothing in writing, send no emails and texts, or use the Census' Skype system, and leave no voicemails. Not only does that make doing the Census extremely difficult but also quite frankly it smacks of either tin eared incompetence and/or a conspiracy. If this was above board, why are these explanations/instructions not in writing? Again you might order them to describe the process and timing and oral and written directives related to all this? Note that we at the ground level are trying our best to overcome the normal confusion that is involved in any big undertaking like we are involved with, and with such even well-meaning people will make honest mistakes, but add to that a prohibition of all forms of record making communications seems to indicate additionally a bad intent?

4. Even more so than my voiced concerns below, and given the flood of anecdotes in the record, while I once had little confidence I now have even less confidence that the supposed near 100% response or valid closed out rates are valid. Part of this may be a subject to the inherent instability of the system in terms of things "disappearing," but of more concern are cases being closed from above. Below I suggested a way for you to determine whether the process is willfully or inherently challenged by the weaknesses of the system. You might order them to describe the process and timing and oral and written directives related to all this?

<https://outlook.office365.com/mail/lhkpo@cand.uscourts.gov/inbox/id/AAQkAGVjODhkZmYzLTcxZjktNDYyIhYTAxLTU1MzNhNmM3YzZiYwAQAJnXr6izK...> 1/3

10/7/2020

Mail - CAND LHKpo - Outlook

Thank you for your further attention to these matters. And as I am sure you are aware only you can enforce the relaying and gathering of the data to determine the true state of play.

----- Forwarded message -----

From: **Zachary Pasqualini** <zacharypasqualini@gmail.com>

Date: Thursday, October 1, 2020

Subject: RE: Please inform Judge Koh of the following before today's DOC Census hearing...

To: "lhkpo@cand.uscourts.gov" <lhkpo@cand.uscourts.gov>, "Lhkcrd@cand.uscourts.gov" <Lhkcrd@cand.uscourts.gov>, "diane_miyashiro@cand.uscourts.gov" <diane_miyashiro@cand.uscourts.gov>

Thank you Judge Koh for empowering me and the others of us inside or recently familiar with the workings of the Census 2020 in appealing to you to ensure that despite all the challenges we all are facing, particularly with COVID-19 and the general difficulty and even immensity of the task at hand, that the Census 2020 is as successful as possible by asking our senior management to respond directly to our concerns.

Frankly, though, and particularly given the fact that MQA was partially and is in the process of being hours to days away from being entirely dismantled, I found the Census' response to address our concerns to the Office of the Inspector General to be lacking given:

1. The critical timing of all this where appealing to the OIG just adds time that isn't at all there; and
2. The concern I have that this could all be part of a witting or unwitting (but in effect the same as witting) effort to "run out the clock."

And note that the dismantling isn't happening only with Recruiting Assistants turning in their equipment and being removed from the system, but also the already done dismantling of the upper level to them Partnership Specialists cadre that are so integral and are as the system goes the lead to organizing the creation of or our participation in MQA events.

And while I am certainly sympathetic to the responses you are getting from management relaying the extensive time it takes to respond to us, it seems ironic that management not simply adhering to your orders is the cause of their own extra work and the confusion that abounds.

Further adding to my concern are the seems to me improbably high nationwide 98+% response rates <https://2020census.gov/en/response-rates/nrfu.html> particularly in the many areas that were predicted to be very difficult to count, and in particular in people of color communities, as shown at <https://www.census.gov/library/visualizations/2017/geo/roam.html>.

If we all had the time to do it, I'd strongly suggest that you ask senior management to chart the response rates against time for you to see if the steady increase up until recently has been most recently improbably accelerated, which would suggest that as per the concerns of another correspondent (in the same order you made for the Census to respond to my correspondence) that the standards regarding counting a non-responding household have been too significantly to even inappropriately loosened.

I would however suggest you explicitly ask for any documentation related to any change in such standards.

What I do ask you to do, particularly given the confusing game of the equivalent of telephone tag we are subject to at the streets level, and given the acknowledged difficulty of even in best in times getting a battleship to maneuver like a PT boat, is for you to ORDER THE SECRETARY to immediately send the following clearly stated correspondence to all of us in the Census:

<https://outlook.office365.com/mail/lhkpo@cand.uscourts.gov/inbox/id/AAQkAGVjODhkZmYzLTcxZjktNDAYy1hYTAXLTU1MzNhNmM3YzZiYwAQAJnXr6izK...> 2/3

10/7/2020

Mail - CAND LHKpo - Outlook

1. Cease and desist any actions that would detriment getting as complete a count as possible by the end of October 2020, such as any not based on poor performance based terminations, and terminations due to a supposed lack of work IF an individual is willing to work for or in any area as per the needs of the Census;
2. Hire back and reequip as many of the Enumerators and Recruiting Assistants and other support staff separated since the filing of this suit for any other reason than poor performance IF an individual is willing to work for or in any area as per the needs of the Census;
3. Devolve leadership for and supporting the count to as low a level as possible, since we locally know our areas better than anyone and have the local connections;
4. Allow for necessary overtime; and
5. Swarm resources into the undercounted areas.

Thank you for your further consideration of the above and below. G-d bless America, and success to the Constitutionally mandated and highly important effort we are all involved in!

I mean no disrespect to management, but I am concerned about actions, fairness, comprehensiveness, and the long-term implications of the next month on the effects of and from the Census over the next decade.

On Tuesday, September 29, 2020, Zachary Pasqualini <zacharypasqualini@gmail.com> wrote:

Hello Judge Koh. Note that not only should enumerating continue past October 5th, but also the MQA (Mobile Questionnaire Assistance) effort.

Note that after recruiting sufficient Census office and field staff, the Recruiting Assistants went into MQA, which involves going to churches, events, food banks, etc. and informing there congregated groups of citizens about the Census and/or using iPads to help these citizens to complete their response.

It is an integral and important part of counting as many people as possible.

But seemingly MQA is being forgotten and Census management is saying that it will end October 5th no matter what the outcome in your court is.

I respectfully suggest that ending MQA "early" or otherwise would be a detrimental mistake to achieving the Census' goal of counting everyone. I also respectfully suggest that you explicitly include the continuation of MQA in your extension order.

Thank you for your consideration!

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